

DEFENDANTS' MOTION TO DISMISS SUMMARY
Ceglia v. Zuckerberg and Facebook, Inc., 10-cv-569-RJA

CEGLIA'S FRAUDULENT SHAKEDOWN OF FACEBOOK

- On June 30, 2010, Paul Ceglia filed this *fraudulent shakedown* in New York State court.
 - o His motive was clear from day one: to extort a settlement from Facebook.
- Ceglia claimed breach of an alleged Work for Hire contract with Mark Zuckerberg, dated April 28, 2003, which purports to give Ceglia a multi-billion-dollar ownership interest in Facebook.
 - o He claims he “forgot” that he had a contract about Facebook for **7 years** and then “found” it when he was looking through his files after being arrested for his wood-pellet scheme.
 - o *See* Tim Graham, *Facebook friend or foe?*, The Buffalo News, July 12, 2011, available at <http://www.buffalonews.com/city/communities/southern-tier/article484876.ece>; Declaration of Donald R. Henne (Doc. No. 49), ¶¶ 5-8.
- After Facebook refused to immediately settle, Ceglia then alleged the existence of “emails” with Zuckerberg concerning his purported interest in Facebook.
- Today, Facebook moved to dismiss Paul Ceglia’s lawsuit — exposing it once and for all as a fraudulent shakedown.
 - o Today’s motion presents a ***treasure trove of evidence*** — much of which has never before made public and comes from Ceglia’s own computers and email accounts — uncovered by Facebook’s team of world-renowned forensic experts.
 - o Today’s motion proves, beyond any doubt, that Ceglia, ***a career criminal and hustler***, has perpetrated a massive fraud on the federal courts and Facebook.
 - o Ceglia’s Work for Hire document is a lie — ***a recent forgery created for use in this fraudulent lawsuit.***
 - In addition, Facebook’s experts found the ***authentic StreetFax contract*** on Ceglia’s own computer hard drive. That authentic contract concerns only the limited website development work that Zuckerberg performed for StreetFax, Ceglia’s defunct company, in 2003-04. It says nothing about Facebook.
 - The authentic StreetFax contract proves that Ceglia’s fraudulent Work for Hire is just a recently doctored version of the actual contract between Zuckerberg and StreetFax.
 - o Ceglia’s bogus “emails” are more lies — ***historically impossible fiction typed by Ceglia into backdated Word documents.***

COURT-ORDERED EXPEDITED DISCOVERY BASED ON OVERWHELMING INITIAL SHOWING OF FRAUD

- Confronted with Ceglia’s shakedown, Facebook assembled a team of world-renowned forensic document examiners and e-forgery experts — experts often used by the United States government — to prove Ceglia’s fraud.
- Last summer, the Court issued an order granting expedited discovery to allow Facebook to assemble more evidence that Ceglia is perpetrating a fraud on the federal courts. That evidence came from Ceglia’s own computers and hard drives, as well as the paper Work for Hire document itself.
- Facebook told the Court that once it had gathered evidence conclusively establishing the fraud through a forensic examination of Ceglia’s computers, email accounts, and the Work for Hire Document itself, it would then move the Court to dismiss this lawsuit.
- The evidence is in. And it is devastating for Ceglia and his cohorts.

FACEBOOK FOUND THE AUTHENTIC CONTRACT ON CEGLIA’S OWN HARD DRIVE

- Facebook’s experts Stroz Friedberg, LLC, the highly-regarded digital forensics firm, found the *authentic StreetFax Contract on Ceglia’s own hard drive*. (Memorandum of Law in Support of Defendants’ Motion to Dismiss (“Brief”), pp. 2–3).
- The authentic StreetFax contract, also dated April 28, 2003, *says nothing about Facebook*, which makes sense — *Facebook was not conceived of until many months later*, in approximately December 2003. (Brief, pp. 2, 38–39).
- The authentic StreetFax contract was attached to two emails that Ceglia sent on March 3, 2004, to Jim Kole, a lawyer at the international law firm Sidley Austin. (Brief, p. 2).

SIDLEY AUSTIN ALSO FOUND THE AUTHENTIC STREETFAX CONTRACT ON ITS OWN SERVER

- When Facebook found the authentic StreetFax contract, Ceglia played the last, desperate card in his hand: he proclaimed that Zuckerberg and his lawyers had created a “photoshopped” document themselves and somehow “planted” it on his hard drive. (Brief, p. 3).
- Facebook soon exposed this lie as well.
- It issued a subpoena to Sidley Austin, the international law firm for which Jim Kole worked on March 3, 2004, when he received the emails from Ceglia. (Brief, pp. 3, 32–33).
- *Sidley Austin confirmed that the emails and StreetFax contract were on the firm’s server*, where they have resided since 2004. (Brief, pp. 28–29).
- New forensic analysis, including Stroz Friedberg’s recovery of deleted files and the emails’ Internet headers, confirm that Ceglia’s preposterous “planting” accusation is a lie: Ceglia scanned and sent the authentic Street Fax contract to Sidley Austin on the morning of March 3, 2004. (Brief, pp. 28–34).

- Stroz Friedberg recovered deleted files from Ceglia's hard drive that prove that, on the morning of March 3, 2004, ***he scanned the authentic StreetFax contract to his computer.***
- Just minutes later, Ceglia then sent the authentic StreetFax contract to Sidley Austin: the ***emails' Internet headers*** show the time-stamped transmittal of the emails through physical servers controlled by Adelphia and Sidley Austin.

THE INK ON CEGLIA'S PAPER WORK FOR HIRE DOCUMENT IS FRESH

- Forensic testing on the paper Work for Hire document also proves that it is a recently-created forgery.
- Gerald LaPorte — a world-renowned forensic chemist and document dating specialist — tested the ink from the handwritten notations purportedly made when the document was allegedly signed in 2003. (Brief, pp. 40-41).
 - ***The ink is “fresh”:*** LaPorte determined, through extensive chemical analysis, that the ink is fewer than two years old. The Work for Hire document could not have been created in 2003.
- Professor Frank Romano — one of the nation's leading document authentication experts with more than 50 years in the field — examined the typesetting and formatting of the Work for Hire Document and reached the same conclusion: The Work for Hire document is an ***“amateurish forgery.”*** (Brief, pp. 40–41).
 - For example, Professor Romano's examination of the paper Work for Hire document confirmed that the pages are in different fonts: ***Page 1 is in Garamond, while Page 2 is in Times New Roman.***

CEGLIA'S BOGUS “EMAILS” ARE PHONY TEXT TYPED INTO BACKDATED DOCS

- Ceglia's fraud, however, does not stop with the recently forged Work for Hire document.
- Ceglia doubled-down on his fraud by filing an amended complaint, nine months after he filed his initial complaint, that purported to quote from email exchanges he claimed to have had with Zuckerberg in 2003 and 2004.
- But Ceglia did not attach any actual emails to the amended complaint, and when the Court ordered him to produce them, it turned out that they did not exist.
- Instead, Ceglia produced Microsoft Word documents into which he claims to have copied-and-pasted the text of the “emails” back in 2003-04.
- These Word documents are backdated and the “emails” are historically impossible fabrications.
- ***Ceglia created the Word documents containing the bogus “emails” on a backdated computer*** — that is, a computer on which Ceglia had reset the system clock to 2003 and 2004 — to make it appear that the documents had been created at the time he claimed to have been emailing with Zuckerberg. (Brief, pp. 45–50).

- But like many amateur fraudsters, he made a mistake — he reset the system clock to October 2003, a date before many of the “emails” were even allegedly sent.
- In addition to bungling the backdating of his Microsoft Word documents, Ceglia also botched the fabrication of the text of the “emails” themselves: *he forgot about Daylight Savings Time*. (Brief, pp. 46–47).
 - Each of the purported “emails” contains a “Date” line that includes the time zone from which the email was supposedly sent.
 - Between October 26, 2003 and April 4, 2004, Eastern Standard Time was in effect. But all of the “emails” Ceglia purportedly sent within this time period contain a “-0400” stamp reflecting Eastern Daylight Time.
 - *These “emails” are a physical impossibility: there is no place in the Continental United States from which Ceglia could have sent these “emails” with those time stamps on those dates.*
 - When he fabricated the emails, *Ceglia forgot to spring forward and fall back*.
- The substance of the purported emails also contradicts matters of historical fact. (Brief, pp. 46–47).
 - To take just one of the more glaring examples, Ceglia quoted from a supposed “email” that he says Zuckerberg sent him at 8:27 a.m. on February 4, 2004. In that “email,” Zuckerberg allegedly wrote that Thefacebook.com had “opened for students today” and encouraged Ceglia to “take a look” at the website. Ceglia allegedly responded at 10:30 a.m. that morning, writing “Congrats Mark! The site looks great.”
 - *This exchange is a historical impossibility: Thefacebook.com website did not go live and become available to students until the afternoon of February 4, 2004.*
 - In addition, the site was only open to Harvard students and Ceglia (not a Harvard student) could not have accessed it.
- That Ceglia’s “emails” are all fakes is further confirmed by the fact that many purport to have been sent to and from Zuckerberg’s Harvard email account — *yet not a single one exists on the Harvard server*. (Brief, pp. 47–49).
- What does exist in the Harvard account are numerous emails between Zuckerberg, Ceglia, and StreetFax employees concerning Ceglia’s failure to pay Zuckerberg for his StreetFax work — and Ceglia’s repeated pleas for forgiveness and his promises to scrape together the money he owed Zuckerberg, *all of which contradict Ceglia’s fictional tale*. (Brief, pp. 48–49).

FACEBOOK FOUND CEGLIA’S BACKDATED TEST FORGERIES AND EVIDENCE OF HEX EDITING

- The authentic StreetFax contract and backdated bogus “emails” were not the only smoking guns found on Ceglia’s computer.

- Facebook also discovered Ceglia’s ***test forgeries*** — seven versions of the Work for Hire document that are very similar (but not identical) to the version attached to Ceglia’s complaint. ***Ceglia created these test forgeries last year during the course of this litigation.*** (Brief, pp. 42-43).
 - The metadata for these test forgeries reveal Ceglia’s trial-and-error attempts to backdate and manipulate the Work for Hire document, as he repeatedly created different versions of the document and attempted to backdate them by adjusting the system clock on his computer.
- To perpetrate his fraud, Ceglia also made extensive use of a hex editor — a program commonly used by electronic forgers that allows a user to edit the raw data (bits and bytes) that make up a file — in testing the ways he could attempt to modify and manipulate Word documents without leaving a digital fingerprint. (Brief, p. 44).

CEGLIA’S COVER UP: HE CREATED MULTIPLE VERSIONS OF THE WORK FOR HIRE — AND THEN “BAKED” THE DOCUMENT TO PREVENT TESTING

- When Ceglia’s lawyer Paul Argentieri unveiled the purported original Work for Hire document on the morning of July 14, 2011 for a court-ordered inspection by Facebook’s experts, it was immediately apparent that something was wrong: the pages had an off-white color, the ink was faded, and the document as a whole looked completely different from the version that had been attached to Ceglia’s Amended Complaint. (Brief, pp. 7-8).
- Forensic analysis of the Work for Hire document has now revealed two findings that prove that after the lawsuit was filed, Ceglia frantically tried to conceal his tracks and cover up his fraud:
 - When Ceglia filed his complaint in June 2010, he attached one version of the Work for Hire document to his complaint. But when he produced the document to Facebook’s experts in July 2011, ***it was a different physical document.*** In other words, Ceglia has forged ***at least two different forged Work for Hire documents***: one that he gave to his experts and another for Facebook’s experts. (Brief, pp. 50–55).
 - To make matters even worse, the forgery that he produced to Facebook’s experts was further tampered with: Ceglia ***“baked” that document by hanging it up with clothespins or clips and exposing it to intense light***, in an attempt to give the document an aged appearance and to frustrate Facebook’s experts’ ink analysis. (Brief, pp. 54–57).
- First, Ceglia created a ***different version of the forged Work for Hire*** to give to Facebook’s experts. (Brief, pp. 8, 50–54).
 - Gus Lesnevich, one of the nation’s top forensic document examiners, analyzed the physical copy of the Work for Hire document that Ceglia made available for inspection, and compared it to the version of the document that Ceglia attached to his initial complaint and amended complaint.
 - Lesnevich determined beyond any doubt that they are not the same documents. ***Specifically, the interlineations on page 1 of the two versions contain nearly twenty observable dissimilarities.***

- Ceglia appears to have traced over the interlineations in order to create a new “original” version of the Work for Hire document that would be produced to Facebook’s experts.
- Second, ***Ceglia tampered with this “new” forged Work for Hire document*** that he gave to Facebook’s experts by “baking” it — hanging it up by clothespins or clips exposing it to light for extended periods. (Brief, pp. 8, 50–57).
 - His goal was clear: to give the document an aged appearance and to frustrate efforts to identify and date the ink.
 - Facebook’s experts detected this additional act of spoliation and document tampering by identifying small, irregularly spaced “tabs” on the fronts of the Work for Hire document — ***the clothespins or clips*** that Ceglia used to hang the document while he exposed it to intense light.

CEGLIA’S COVER UP: HE DESTROYED CRITICAL ELECTRONIC EVIDENCE

- Ceglia willfully destroyed at least six USB devices, some of which were used during the pendency of this litigation and contained relevant documents. (Brief, pp. 9, 57–59).
 - There is no question that his destruction was intentional, as he had used one of the devices as recently as April 4, 2011, while this litigation was pending.
- One of these devices contained image files entitled “Zuckerberg Contract page 1.tif” and “Zuckerberg Contract page 2.tif” that he had stored in a folder entitled “Facebook Files.”
- This is the digital equivalent of throwing the murder weapon into Lake Erie.

CEGLIA’S LITIGATION MISCONDUCT

- The Court has found that Ceglia intentionally violated this Court’s orders, going so far as to direct his attorneys not to comply. (Brief, pp. 61–64).
- The Court concluded that Ceglia has demonstrated “a plain lack of respect” for court orders “which cannot be countenanced.” Doc. No. 283 at 22, 24.

CEGLIA IS A CAREER CRIMINAL AND SCAM ARTIST

- Ceglia is a convicted felon with a well-documented track record of scamming innocent victims.
- Ceglia’s scheme is brazen and outrageous but in keeping with his character: Ceglia is a convicted felon — ***a career criminal and scam artist*** whose past crimes including ***stealing from senior citizens, forging government documents*** as part of a land swindle, and ***running a scheme to defraud local residents (many senior citizens) by tricking them into buying nonexistent wood pellets***. (Brief, pp. 6–7).
- This case is his biggest hustle yet.

- It is not a coincidence that Facebook’s New York and local counsel are all former federal prosecutors. From the beginning, ***Facebook recognized that its attorneys were not defending a lawsuit, but prosecuting a fraud.***